Saskatchewan
Municipal Affairs,
Culture and Housing

SASKATCHEWAN

Council Member's Handbook (Rural Municipality)

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Culture and Housing
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1. INTRODUCTION

This handbook has been prepared to help elected officials of rural municipalities in carrying out the duties and responsibilities of public office. It is intended to be used for reference purposes only. *The Rural Municipality Act, 1989* and other Acts which provide specific authority for rural municipalities to perform their functions should be consulted when dealing with municipal issues.

This publication is based on provincial legislation, general local government reference works, other detailed municipal manuals prepared by Municipal Advisory Services and similar publications dealing with municipal government in other provinces and territories including Ontario, New Brunswick and the Yukon Territories.

Basis for Municipal Government

Canada's system of government has three levels - federal, provincial and municipal. The federal and provincial levels have their powers set out in the Constitution. However, under the British North America Act of 1867, renamed the Constitution Act, 1982, the powers and duties of municipalities are not specified. Rather, municipal government is a product of the province. In Saskatchewan, legislation was passed in 1909 that specified the powers of rural municipalities, villages, towns and cities.

The present legislation which sets out the system of municipal government includes *The Rural Municipality Act, 1989, The Urban Municipality Act, 1984, The Northern Municipalities Act* and *The Local Government Election Act*. As of January 1, 1999 there were 297 rural municipalities, 159 organized hamlets, 12 cities, 461 towns and villages, 24 northern municipalities and 42 resort villages.

While the key powers and duties of rural municipalities are provided for in *The Rural Municipality Act, 1989,* many other Acts affect rural government. Some of the more frequently used ones include *The Planning and Development Act, 1983, The Tax Enforcement Act, The Stray Animals Act, The Noxious Weeds Act* and *The Line Fence Act.*

2. POWERS AND DUTIES OF COUNCIL

The elected council is the governing body of the municipality.

Council consists of a reeve (head of council) and councillors (one for each division) who are directly elected by the voters. The reeve is elected by all the voters of the municipality. Councillors are elected by the voters of the division the councillor represents.

The election of councillors in odd-numbered divisions and the election of reeve are held in even-numbered years. In even-numbered divisions, elections are held in odd-numbered years.

The term of office of reeve and councillor is 2 years and commences on January 1 following their election.

Councils are responsible for promoting the peace, order and good government of the municipality. To achieve this, councils are provided specific and defined powers in *The Rural Municipality Act, 1989* and other statutes. If specific authority is not found in a statute it is likely that a municipality does not have authority to take such an action. Some specific powers and duties of council relate to roads, budgeting, taxation, animal control and building standards.

Discretionary Powers of Council

Certain powers of a council are discretionary, that is, it is up to the council to decide whether or not to carry out that particular function. For example, a council may maintain its own fire department.

Duties of Council

There are certain duties that are mandatory under *The Rural Municipality Act, 1989.* Councils have no choice but to carry them out.

Some mandatory council duties include appointing an administrator, and setting an annual budget and mill rate.

3. POWERS AND DUTIES OF REEVE

The reeve as the chief executive officer of the rural municipality, has certain duties and additional powers outlined in *The Rural Municipality Act, 1989.* The term "The Act" is used throughout this *Guide* and refers to *The Rural Municipality Act, 1989.*

Duties:

- The reeve, being the head of council, shall preside at every meeting of the council and preserve order, enforce the rules of procedure and submit to council every question on a motion of any of its members.

- The reeve shall be active in ensuring that all laws governing the rural municipality are abided by.

- The reeve shall cause all cases of negligence, carelessness, and violation of duty by employees to be duly prosecuted.

- The reeve shall keep council informed of and recommend any measures which would tend to the improvement of the finances and welfare of the municipality.

- The reeve countersigns the cheques for all payments made on behalf of the municipality.

- The reeve shall place before council any audit report outlining any negligence, irregularity or discrepancy found in the books or accounts of the municipality.

- If a returning officer is unable to act during a municipal election the reeve shall appoint a person to act in the returning officer's place.

Powers:

- The reeve may suspend any municipal employee.

- The reeve may, without a warrant, seize any vehicle left on a municipal road at a place or in a manner that could be a hazard to other users of the road or road allowance.

- The reeve may, without a warrant, seize any vehicle left on a municipal road or road allowance which interferes with construction, maintenance or snow removal operations.

NOTE: Although the reeve is granted certain powers and duties the reeve must exercise caution and ensure that proper authority is granted by statute before carrying out any actions.

While the reeve has certain duties and powers over and above those of individual councillors, it should be kept in mind that the reeve is only one member of council. A single council member does not have the power to bind the municipality in any way or direct its employees or its affairs. The elected officials power is collective, not individual.

4. COUNCIL MEETINGS

Councils exercise their powers by making decisions at council meetings. These meetings must be held in accordance with the Act.

The Act provides that the reeve shall preside at all council meetings, and shall preserve order and enforce the procedural rules of council.

The reeve submits to the council every question on a motion of a member of council. In addition the reeve is required to vote, like other council members, on all motions put before council.

At the first meeting of council, or as soon as possible thereafter, a councillor must be appointed deputy reeve to act in place of the reeve when the reeve is absent or unable to perform the duties of the office.

The Act does not explain every detail concerning the conduct of meetings. To cover procedures not dealt with by the Act, a council may pass its own procedure bylaw. This bylaw sets the rules by which council business will be conducted. However, a procedure bylaw cannot establish rules or procedures that are contrary to the provisions of the Act.

Advisory (Management) Services has prepared a Council Meeting Procedures Manual which provides more details on the conduct of council meetings.

First Meeting

It is the responsibility of the administrator to call the first meeting of council each year. This meeting must be held not later than January 15, at the time and place specified by the administrator.

Before the first meeting of council commences, each new member elected takes an oath of office and leaves it with the administrator. The oath states that the council member will truly, faithfully and impartially, to the best of his or her knowledge and ability, perform the duties of the office. It provides that the member will not accept rewards or payments for any corrupt practice. It also includes a statement that any conflict of interest will be declared as required under the Act.

Regular Meetings

All members of council must be present to decide by resolution to hold regular council meetings. The resolution must state the date, hour and place of each regular meeting.

Regular meetings are held at specified regular intervals as set out in either the procedure bylaw or by council resolution.

Special Meetings

Special meetings are held at times other than regular meetings. The administrator shall call a special meeting of council on written request of the reeve or a majority of the members of council.

All members of council must be notified in writing and the notice shall include the day, hour and place of the special meeting and the business to be transacted at the meeting. The notice must be delivered personally to council members at their home, or left with an adult at their residence if a council member is absent, at least 48 hours before the day of the meeting. The notice may be mailed to the last known address of each council member at least seven days before the day of the meeting.

The reeve may call a special meeting of council on shorter notice either in writing or verbally, provided each member of council gives their written consent to that notice before the start of the meeting.

Basic Requirements For A Council Meeting

For a council meeting to be valid it must be:

1. Properly Convened: The meeting must be called by proper authority and adequate notice must be provided to council members. Regular meetings require no other notice than is contained in the resolution or bylaw of council setting the day, time and place.

2. Properly Constituted: The correct person must be in the chair (reeve or deputy reeve or in their absence, a chairperson elected from among the members present) and a quorum must be present. A quorum is the majority of the total council members, whether present or not. A quorum is not reduced if a position is vacant.

3. Properly Conducted: The meeting must be held in accordance with any applicable statutes, procedure bylaws or parliamentary rules.

A binding decision can only be made at a properly constituted council meeting which is open to the public and at which a quorum is present.

Rules of Parliamentary Procedure

The main objectives of parliamentary procedure rules are to guard against hasty, ill-considered action, to give each member an equal right to be heard, to determine the will of the majority, and to protect the rights of the minority. Some of the sources for these rules are:

1. *Robert's Rules of Order (Revised edition)*
2. *Beauchesne's Parliamentary Rules and Forms (Fifth edition)*
3. *Bourinot's Rules of Order*
4. *Auer's Essentials of Parliamentary Procedures*
5. *Kerr and King's Procedures for Meetings and Organizations*

Following parliamentary procedure rules during council meetings will help the decision making process of councils.

Council Committees

The Act allows for the appointment of council committees by resolution. Council committees, as the name implies, are comprised only of members of council. The reeve is an ex officio member of all council committees. Meetings of these committees are usually quite informal. Members speak as often as necessary provided they do not deprive other members of opportunities to present their views. The chairperson may take an active part in the discussion and may put questions to a vote after an informal discussion.

The procedure for conducting committee meetings could be set out in a procedure bylaw.

Two types of council committees are generally used - standing committees and special committees. Council can also meet as a committee of the whole - as the name suggests, it comprises the whole council. These committees are described below:

Standing Committees

Council appoints standing committees so that a small number of councillors can become familiar with one function of the municipality. Examples of standing committees are roads and transportation, protective services and finance and administration.

A council refers matters relating to these areas to the appropriate committee. Council decides the number of council members and the specific duties for each committee.

Special Committees

Special committees of council are established to deal with a specific problem or issue and cease to exist when that matter is concluded.

For example, council might appoint a special committee to make recommendations concerning council remuneration or to consider the purchase of a computer.

Committee of the Whole

When a council wishes to discuss a matter under relaxed rules of procedure, it can, by resolution, decide to hold such discussions in committee of the whole. Council can move into committee of the whole during a council meeting or can hold a separate committee of the whole meeting.

Committee of the whole meetings are open to the public. Because a council sits as a committee of the whole does not necessarily mean that the meeting is closed to the public. Occasionally, however, the nature of the subject may make a private session preferable (e.g. discussion of personnel matters).

The Act does not give authority to pass bylaws or resolutions at private sessions. Any resolution or bylaw recommended by a committee must be passed at either a regular or special council meeting, both of which are open to the public.

The committee of the whole holds discussions to arrive at a consensus and makes recommendations to take back to the council meeting.

Appointments of Boards, Associations and Commissions

A council has the authority to establish, by bylaw, various boards, associations, commissions and other organizations to manage and operate any activity of the municipality. Appointment of members of the public or council members to these boards is made by resolution of council for a term stated in the bylaw. A Recreation Board is an example of this type of board.

5. BYLAWS

Laws that municipalities are permitted to pass are called bylaws, meaning "municipal laws".

Municipalities may take only such action as is authorized by the provincial legislature through provincial Acts. If there is no statutory authorization, a municipality may not legally pass a bylaw to take such action. A bylaw passed without authorization is considered *ultra vires* (beyond the power of the municipality) and, if challenged, it may be struck down by the courts.

Councils should therefore ensure that bylaws are consistent with provincial Acts.

Bylaw or Resolution?

A resolution is primarily used for day to day business and generally expresses the will of council on a certain occasion that is not likely to recur. In most instances, resolutions are used unless the legislation specifies use of a bylaw.

Often, the legislation that grants the municipality specific authority will state whether a power is to be exercised by bylaw. However, if the use of a bylaw or resolution is optional, the general rule of thumb is to use a bylaw for ongoing matters that have general application or involve a penalty (e.g. licensing).

Action taken by the municipality without the decision of council expressed in a resolution or bylaw could be open to legal challenge.

Passing a Bylaw

A bylaw is passed by reading it three separate times at council meetings, with the motion for each reading passed by a majority vote. However, because of the pressing nature of a problem or because of a consensus on an issue, it is sometimes appropriate to give a bylaw three readings at one meeting. The council must give unanimous consent by resolution to give a bylaw three readings at any one meeting.

6. THE DISTINCTION BETWEEN POLICY AND ADMINISTRATION

An effective working relationship between a municipal council and its administrator is a good foundation upon which a municipality can conduct its affairs. Interaction between the council and the administrator has to be close and regular. The key role of council members is to provide leadership and set policy. The administrator is a policy advisor and ensures council's policies are carried out.

Staff should keep the council informed on current and impending issues. Each issue should be thoroughly researched so that council can be given a reasonable range of alternatives for consideration. Municipal administration staff members have the experience and knowledge needed by council members in order for them to do their jobs more efficiently.

In reality, the division between policy and administration is not always clear-cut. It is inevitable that there will be areas of overlap between policy making and administration. However, if each party is aware of the other's role and the roles are complementary, it will foster mutual respect and provide a sound basis for governing the municipality and administering its affairs.

7. FINANCE

Current Budget

The Act requires that as soon as possible in each year, the council prepare a budget containing the estimated revenues and expenditures for the current year. These include expenditures for debt repayment, for capital purposes, and for planned programs and services of the municipality. Rural municipalities are not permitted to budget for a deficit.

The council shall also prepare an estimate of its budgeted revenues for the year from licensing, grants in lieu of taxes, government grants, surpluses of any previous year appropriated for current year expenditures and all sources of revenue other than property taxation. The difference between the budgeted expenditures and the budgeted revenues is the amount to be raised by the property tax levy on all taxable property.

The budget process is one of the most important items council will deal with each year. The budget should not be thought of as just an accounting exercise, balancing revenues and expenditures. Rather, it should be a time to look back on previous budgets and a time to set priorities for current and future budgets. The budget process is ongoing and not carved in stone, as the budget can always be amended by resolution.

Budget Control

When putting together the budget estimates, the council is planning the level of services and expenditures for the current year. The budget is an instrument to control expenditures and to prevent the municipality from entering into financial commitments that have not been budgeted. However, local governments cannot operate on a strictly cash basis. Inflows of cash will be highest around the due date for taxes and grants. Outflows of cash will vary throughout the year. Good management will ensure that short-term borrowing is kept to a minimum and interest from short-term investments is maximized.

Budget control is important in keeping revenues and expenditures in line and should be monitored, at least monthly, through the Receipts and Payments Statement.

Paying Accounts

The council must, by resolution, approve all payments of accounts, even when council has previously authorized the expenditure.

Approval must be given prior to payment of all accounts except for:

- the payment of wages and utility accounts if the municipality has a bylaw authorizing payment prior to the council meeting;
- the remittance of taxes collected for other taxing authorities. These taxes must be remitted by the 10th of the month following collection;
- other payments required to be made by statute (Revenue Canada remittances, SAMA requisition, for example).

Authorization to pay accounts must be verified by having the reeve or an appointed committee initial the accounts.

All payments authorized by council must be listed in the minutes. It's preferable that they be listed in order of cheque number for council's benefit and for audit control purposes. Listing the accounts ensures that a record is maintained of all business conducted at the council meeting.

Statement of Receipts and Payments

The administrator must submit to the council, each month, a Statement of Receipts and Payments. This statement must show all the receipts and payments made during the previous month and balances to date and all the bank and cash balances after they've been reconciled. Council should, by resolution, acknowledge that they have received this statement. It is important that all council members be constantly aware of the municipality's financial position.

Audit

The council of every municipality must, by resolution, appoint an auditor. An auditor retains this appointment until given appropriate notice as required by *The Rural Municipality Act, 1989.*

The auditor shall report whether the financial statement, as prepared by the administrator, fairly reflects the financial condition of the municipality. This report is done in accordance with generally accepted accounting and auditing principles for rural municipalities.

The auditor is required to make an examination of the books, accounts and records of the municipality and of boards, associations and commissions established by council that administer municipal funds.

8. PECUNIARY INTEREST AND DISQUALIFICATIONS

What is a Conflict of Interest?

Conflict of interest generally occurs when a person in public life gets into a situation where a personal interest conflicts with the public duty.

The term "conflict of interest" in rural municipalities is limited to pecuniary interest.

The pecuniary interest provisions of *The Rural Municipality Act, 1989* extend to a financial gain or loss that a council member, a member's agent, partner, spouse, parent or child could make from a decision of council. They also apply to a controlling interest that a council member, an agent or partner, spouse, parent or child has in a corporation (or if a partner, spouse, parent, child or agent is a chief officer of a corporation) that could benefit financially from or be adversely affected financially by a decision of council.

Procedures for Disclosure

It is the duty of each individual council member to determine what does or what does not constitute a case of pecuniary interest in regard to a specific situation or set of circumstances. It is not the duty of the administrator or any other member of council to point out a possible situation of pecuniary interest regarding another member of council.

If a matter comes before council that a member believes he or she has a pecuniary interest in, there are clear procedures to follow. The member is required to:

1. Disclose the pecuniary interest to the council. It is not necessary to state the exact nature of the interest.

2. Leave the meeting while the matter is under discussion.

3. Avoid discussing the matter or attempting to influence the decision made by any other council member on the matter before, during or after the meeting.

These procedures apply to all regular and special meetings of council.

Recording the Disclosure

When a member discloses an interest, the administrator is required to record the disclosure in the minutes of the meeting. The council member must ensure that the disclosure is recorded accurately.

Pecuniary Interest - Exceptions

There are certain cases where pecuniary interest does not apply.

Generally these relate to interests a council member would share with any other voter of the municipality in receiving a municipal service or utility from the municipality. As well, pecuniary interest would not apply as a result of receiving payment or benefits as a member of a municipal volunteer organization or board.

Several other cases where pecuniary interest does not apply are if a council member:

- is a member of a credit union or co-operative that carries on business with the municipality;
- is a publisher of a newspaper that publishes advertising for the municipality, as long as only the regular advertising rate is charged, and the advertisement is legally required to be published in a newspaper; or
- has an interest in any land or buildings affected by a local improvement.

Penalties for Violation

Any elector may apply to the courts for a determination of whether a council member has violated the conflict of interest provisions within three years after the alleged offence.

It is important to note that if the judge finds a contravention has occurred, the member's motive is not relevant to that finding, although it is considered when the penalty is determined. If the judge finds that contravention has occurred, the member may be ordered to pay restitution of any money gained as a result of the contravention.

If the judge also finds that the contravention was not a result of inadvertence or an honest mistake, the judge will declare the member's seat on council vacant. The judge may also disqualify the member from office for up to three years and order the member to pay court costs.

Specifics on conflict of interest provisions may be obtained by referring to section 45 of *The Rural Municipality Act, 1989.*

9. CODE OF ETHICS

Sometime ago, we received a copy of a "Code of Ethics" for councils which the Saskatchewan Association of Rural Municipalities has revised. It is included here for your information.

AS A MEMBER OF A COUNCIL

- I will be motivated primarily by an earnest desire to serve my municipality and the people of my community to the best of my ability.
- I will endeavour to attend all council meetings.
- I will recognize that the expenditure of municipal funds is a public trust, and I will endeavour to see that all such funds shall be expended efficiently, economically and in the best interest of the municipality.
- I will not use the municipality or any municipal program for my own personal advantage or for the advantage of my friends.
- I will do everything possible to maintain the integrity, confidence and dignity of the office of a rural municipal council member.
- I will listen to what other council members, individuals or groups may have to say before making final decisions.
- I will endeavour to avoid hostility and bitterness, to observe proper decorum and behaviour, to encourage full and open discussions in all matters and not to withhold or conceal from my fellow council members any information or matter in which they should be concerned.
- I will make no disparaging remarks, in or out of the council meeting about other members of council or their opinions, but I reserve the right to make honest and respectful criticism.
- I will consider it unethical to pursue any procedure calculated to embarrass a fellow member of council, a member of the municipal staff or another local government body.
- I will treat my fellow council members, the municipal staff and the public I serve with respect and consideration.

- I will recognize that authority rests with the council in legal sessions, and not with individual members of the council.

- I will abide by majority decisions of the council once they are made.

- I will not discuss confidential business of council ouside of council and committee meetings.

- I will endeavour to keep informed on all local, provincial and national municipal developments of significance.

- I will earnestly try to interpret the peoples' needs of the entire municipality and do my best to implement action to meet those needs, keeping in mind budget limitations of the municipality.

FURTHER INFORMATION

Saskatchewan Municipal Affairs, Culture and Housing

Saskatchewan Municipal Affairs, Culture and Housing is responsible for developing and delivering programs and services to strengthen and support municipal government. This is achieved in part through direct financial assistance programs and by maintaining a legislative framework to enable local officials to respond to the changing needs of municipal governments in the province.

Advisory (Management) Services assists municipalities by providing advisory and extension services for those working in local government. This includes direct advice by municipal advisory staff and workshops for local officials. Reference materials including manuals, guides and bulletins are provided for use by municipal administrators, council members and the public.

For information contact:

Advisory (Management) Services
Saskatchewan Municipal Affairs,
Culture and Housing
4th Floor, 1855 Victoria Avenue
REGINA, Saskatchewan
S4P 3V7

Inquiries: Telephone: (306) 787-2680
Fax: (306) 787-8748

Municipal Associations

Rural municipal associations in Saskatchewan include the Saskatchewan Association of Rural Municipalities (SARM) and the Rural Municipal Administrators Association of Saskatchewan (RMAAS).

For further information on these associations contact their offices at:

Saskatchewan Association of Rural Municipalities (SARM)
2075 Hamilton Street
REGINA, Saskatchewan
S4P 2E1
Telephone: (306) 757-3577
Fax: (306) 565-2141

Rural Municipal Administrators Association of Saskatchewan (RMAAS)
Box 366
ROSETOWN, Saskatchewan
SOL 2V0
Telephone: (306) 882-4030
Fax: (306) 882-4401